

**Testimony Before the House Subcommittee on Contracting and
Technology on HR 3548:
Plain Language in Government Communications Act**

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Mr. Chairman, I'm here today as the Chair of the non-profit Center for Plain Language. For 15 years, until I retired last year, I was the Chair of a group of federal employees, called PLAIN, dedicated to getting their agencies to write better. I'm delighted to have this chance to testify about this important plain-language bill.

I've been in the plain language "business" for over ten years, and I'm continually amazed by how we communicate in American culture. I see examples of poor communication every day. Humorous and harmless examples are all around us. Jay Leno reads them to us at night; we can read funny ads in Consumers Reports and strange headlines in the newspaper, such as "two sisters reunited after 18 years at checkout counter" and "panda mating fails; veterinarian takes over."

Despite these humorous or insignificant examples, I believe that we have a crisis of communication in this country. We are faced with many health, safety, and security challenges, and all of them are affected by how we communicate. Today's world is so complex that we must rely on others, especially the government, for information to keep us safe and healthy. And when that information is served up in overwritten, wordy, highly technical language our chances of getting the correct information on time to use it effectively are diminished.

Poor writing isn't restricted to the federal government, but the government has a higher responsibility to communicate clearly with citizens. American taxpayers pay the cost of their government, and they deserve to understand what it's doing. Let me read you a few examples of government writing, and their plain language alternatives.

The Department of Justice brings us this great example:

The amount of expenses reimbursed to a claimant shall be reduced by any amount that the claimant receives from a collateral source. In cases in which a claimant receives reimbursement under this provision for expenses that also will or may be reimbursed from another source, the claimant shall subrogate the United States to the claim for payment from the collateral source up to the amount for which the claimant was reimbursed under this provision.

And what does all this mean? Simply that

- If you get a payment from another source, we will reduce our payment to you by the amount you get from that source.
- If you already got payments from us and from another source for the same expenses, you must pay back what we paid you.

Here's an example from the Small Business Administration.

Original: 7(a) loans are only available on a guaranty basis. This means they are provided by lenders who choose to structure their own loans by SBA's requirements and who apply and receive a guaranty from SBA on a portion of this loan. The SBA does not fully guaranty 7(a) loans. The lender and SBA share the risk that a borrower will not be able to repay the loan in full. The guaranty is a guaranty against payment default. It does not cover imprudent decisions by the lender or misrepresentation by the borrower.

What this means: Small businesses get SBA 7(a) loans through approved lenders. By giving these lenders a partial guarantee, SBA shares with them the risk that you may not repay your loan.

And from the National Park Service Guidelines for using a National Seashore:

Original: When the process of freeing a stuck vehicle that has been stuck results in ruts or holes, the operator will fill the rut or hole created by such activity before removing the vehicle from the immediate area.

Rewrite by the Park Service: If you make a hole while freeing a stuck vehicle, you must fill the hole before you drive away.

And finally, a message from the Center for Medicare Services:

Original: The Open Door Initiative is a program based on a simple and fresh attitude: that the CMS desires to better hear and interact with those beneficiaries, providers, and other stakeholders interested in the delivery of quality healthcare

for our nation's seniors and beneficiaries with disabilities. This increased emphasis on responsiveness is captured through an ongoing series of 'Open Door Forums' that provide a dialogue about both the many individual service areas and beneficiary needs within CMS.

What they could have said: We want to hear from you!

Help us improve our service to you. Attend an Open Door forum near you. For information about upcoming forums, visit our website.

You get the idea. I'm sure you could contribute examples of your own. This type of language is expensive, time-consuming, and annoying. It puts citizens at risk and makes it difficult, if not impossible, for federal agencies to fulfill their missions effectively and efficiently.

Confusing communication from the government discourages people from complying with requirements or applying for benefits. One of our board members runs a small woman-owned business in Tulsa, Oklahoma. She asked 13 of her clients about their responses to difficult government communications. Of the 13, 11 said they delay dealing with difficult government documents and 10 said they might never respond. All 13 said clearer language would help them understand the government's work and how it applied to them.

One told this story. His company had to file a federal form every year under the Employee Retirement Income Security Act. Because the employee responsible didn't understand the form, he ignored it, and didn't file it four years in a row. Someone else finally took over the task. No one in-house could help him understand it. The company attorney couldn't help. The health care plan third party administrator couldn't help. Finally he took the form to a CPA firm, which filled it out for a fee of \$3000. Then, because they were delinquent, they had to pay a penalty of \$4000 to the Department of Labor. That penalty would have been even more if they hadn't been filing voluntarily.

The cost of poor government communication is incalculable. Agencies have to write second documents to explain the first unclear document. They have to answer calls asking for explanations. They have to chase after people who failed to respond. They may even lose court cases because their communications violated citizens' rights. About 10 years ago, the 9th circuit found an immigration form to be so obscure it violated rights of due process;

this decision negated hundreds of document fraud cases. ([Walters v. Reno](#), 145 F.3d 1032 (9th Cir. 1998)).

The other side of the story is equally compelling. We know that plain language can save the government and the public time and money and help the government fulfill its mission better. Before I give you a couple examples, let me clarify what we mean by plain language.

As this bill says, plain language is language the intended reader can understand—and use—on one reading. Plain language is audience-focused. It is not a straightjacket of required rules, such as “use active voice” and “use pronouns” and “write in short sentences.” Those are all techniques—often useful techniques—but they are just that—techniques. They do not **define** plain language. Anyone who tells you that some plain language rule can result in confusing communication does not understand what plain language is. There are no hard rules in plain language except to be clear to your intended reader.

Now, let’s consider a couple examples of the benefits of plain language:

A Veterans Benefits Administration office rewrote one benefits letter into plain language. Calls to the office about that letter fell by 90%, saving the office about \$1000 a year in staff time, \$40,000 a year nationwide. But there was another aspect to the story. More veterans applied for benefits because they understood whether they were eligible and what they needed to do. In the end, more veterans got the help they needed from their government because VBA rewrote just this one letter.

<http://www.dbwriting.com/Revising%20Letters%20to%20Veterans.pdf>

Arizona has been in the news lately because its Department of Revenue started a plain language effort which has now spread to other state offices. Here are some of the savings they report:

- The Department of Revenue saved \$51,014 from avoided phone calls after clarifying their requirements.
- The Department of Weights and Measures collected an extra \$144,000 after clarifying its payment instructions.

- The Department of Public Safety's incoming phone calls declined 90 percent after they clarified their instructions to fingerprint-card applicants.

I've attached several more examples of government savings.

So why does the government persist in using difficult language?

First, it's easier. Writing clearly takes hard work. And it requires clear thinking.

Second, it's faster to pull out last year's example and make a few updates than to redo your document.

Third, some government writers still believe that the government needs to sound official and bureaucratic. They believe in a magisterial government. They don't believe it's the writer's job to be clear to the reader; they prefer to shift the burden of communication to the reader.

There has been some progress. The federal plain language group has met monthly for over 10 years, working to promote better communication and helping offices interested in the initiative. It has provided free plain language training to over 5000 federal and contract employees and maintains an excellent website, www.plainlanguage.gov, providing technical advice, references, and training materials to anyone who cares to use them.

President Clinton issued a presidential memo requiring plain language in government documents back in 1998.

<http://www.plainlanguage.gov/whatisPL/govmandates/memo.cfm> Vice President Gore's National Performance Review worked for over four years to spread plain language principles throughout the government. In the mid 1990s, the Small Business Administration mobilized career employees from all parts of the agency in a 10-month effort that converted all of their regulations to plain language, eliminating more than half the pages in the process. It shows what federal agencies can do when they put their mind to it. The National Institutes of Health holds an annual plain language awards program—they typically get several hundred nominations and give about 50 awards.

Despite these scattered results, most agencies still consider it's the reader's job to figure out what they're saying, not their job to be clear. They will not clean up their act and write for their readers unless you establish a legal obligation for them to do so. That is why this bill is so important.

Mr. Chairman, the Center for Plain Language strongly supports HR 3548. We urge the Congress to enact it into law as swiftly as possible. It will be an important step on the path to making this government "of the people" and "by the people" truly "for the people" as well.

Thank you.

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Walters v. Reno

Maria Walters and others v. United States Immigration and Naturalization Service. No. 96-36304. United States Court of Appeals for the Ninth Circuit. 1998 U.S. App. LEXIS 9846, May 18, 1998.

In this case, the court found that certain government forms were so difficult to read that they violated due process requirements that people be given "notice" of possible legal actions against them, and of the legal consequences of their own actions. In brief, the 9th Circuit Court of Appeals found that aliens subject to deportation based on INS charges that they committed document fraud did not get due process. The forms used by INS to tell the plaintiffs that they might be deported did not "simply and plainly communicate" legal consequences to the plaintiffs. The court ordered INS to redo the forms to communicate better. The court also ordered INS to refrain from deporting any alien whose case had been processed using the deficient forms.

See the complete text of the decision here: <http://tinyurl.com/yp8nek>

Plain language – Saving time and money, improving performance.

Case study 1 – Time savings by Alberta Agriculture Department (Canada) from plain language forms

In 1993, Alberta Agriculture hired a plain language consultant to help them revise forms. By mid 1996, they had revised 92 of 646 forms. The plain language versions of the forms resulted in huge savings for the agency. Here are a few examples:

Name of Form	Original form performance	Plain language form performance	Comments
Operating Grant Application	Staff processing time – 20 minutes	Staff processing time – 3 minutes	
Grant Report	25% return rate	50% return rate	
Tree Nursery Order Form	40% error rate	20% error rate	Staff phone calls to deal with errors cut from 27 workdays to 8.5 workdays even though volume of forms increased 20%

Alberta Agriculture estimated that they saved about 10 minutes for each form filed—over 1,000,000 forms a year. That translated, in 1996 dollars, into an annual savings of almost \$3.5 million. And it took the public less time to fill out the new forms.

Case study 2 – Improved performance for Veterans Administration

In the mid 90s, the Veterans Benefits Administration introduced a program to improve its writing. There are many examples of improved performance and lowered cost that grew out of this initiative. Here are 3.

a. The St. Petersburg office. In some cases, when a veteran owes the VA money, the veteran can apply for a waiver. Rewriting the document used to grant or deny a waiver resulted in improved performance for the office.

Decision Document	# of appeals in 6 months	% of VA decisions upheld
Old document	40	91
Plain language document	21	97

b. National program. Every several years, the Veterans Benefits Administration sends a letter to all veterans, asking them to update their beneficiaries. If a veteran dies and the VBA does not have a valid beneficiary listed in their files, the VBA must identify a valid beneficiary through research. Each research project costs the agency several thousand dollars in staff time. VBA decided to rewrite the letter into plain language to try to improve the response rate.

Letter requesting beneficiary	Response rate	Estimated savings in each mailing cycle

Old letter	43%	
Plain language letter	65%	\$5 million in staff time

Case study 3 – Improved regulations at the Federal Communications Commission

The FCC redid its regulations governing the use of radios on pleasure boats into plainer language. A local consulting firm assessed the impact of the rewrite on people affected by the regulation. To try to control for experience, they studied responses by both new and experienced users. They asked the users to use the new and old regulations to find answers to specific questions about the FCC’s requirements.

Type of user	Old regulation – average time to answer questions, in minutes	Plain language regulation - average time to answer questions, in minutes
Experienced	2.43	1.5
New	3.51	1.73

The FCC expects this improved ease of use will translate into improved compliance.

Case study 4 – Preferences for plain language letters among Congressional staff

Starting in the early 90s, the Veterans Benefits Administration started a project to rewrite the over 1,000,000 letters they sent to veterans every year. However, they have never used the same letter-writing techniques with Hill staff, for fear of insulting staff with letters that some call “dumbed down.”

In 2003, a DC-area plain language consulting firm decided to examine the attitudes of Hill staff (working in offices that dealt with Veterans Affairs) toward letters using the plain language techniques. They examined both performance in tasks based on the letters, and subject preferences of the test group. They tested performance on three letters, asking the Hill staff to find answers to specific questions in both a traditional version of a letter and a plain language version.

	Time to find answer to a question in the traditional version	Time to find answer to a question in the plain language version
Letter 1	40 seconds	30 seconds
Letter 2	1 minute, 15 seconds	15 seconds
Letter 3	45 seconds	10 seconds

Participants uniformly expressed a preference for the plain language version of the letters.